

OCT 31 2016

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

UNITED STATES OF AMERICA

Case No. 7:12-cr-00042-5

JULIA C. DUDLEY, CLERK
BY:  DEPUTY CLERK

v.

MEMORANDUM OPINION

MARCHETTA A. JONES,
Petitioner.

By: Hon. Michael F. Urbanski
United States District Judge

Marchetta A. Jones, a federal inmate proceeding pro se, filed a motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255. Court records indicate that the court already dismissed (Dkt. No. 466) a prior § 2255 motion (Dkt. No. 433) by which Petitioner could have raised claims now presented. Thus, claims in the § 2255 motion constitute a second or subsequent motion under 28 U.S.C. § 2255(h). See, e.g., United States v. Hairston, 754 F.3d 258, 262 (4th Cir. 2014).

The court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that a claim in the motion meets certain criteria. See 28 U.S.C. § 2255(h). As Petitioner has not submitted any evidence of having obtained certification from the Court of Appeals to file a second or successive § 2255 motion, the court dismisses the § 2255 motion without prejudice as successive. Based upon the court's finding that Petitioner has not made the requisite substantial showing of denial of a constitutional right as required by 28 U.S.C. § 2253(c), a certificate of appealability is denied.

ENTER: This 31st day of October, 2016.



United States District Judge